

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Civil Action No.: 3:11-cv-00597-MOC-DCK**

THE FAIRPOINT COMMUNICATIONS, INC.  
ET AL. LITIGATION TRUST,

Plaintiff,

- v. -

VERIZON COMMUNICATIONS, INC.,  
NYNEX CORPORATION, VERIZON NEW  
ENGLAND, INC., and VERIZON  
INFORMATION TECHNOLOGIES LLC,

Defendants.

**REVISED CASE  
MANAGEMENT ORDER**

IN ACCORDANCE WITH the Local Rules of the Western District of North Carolina and pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court **GRANTS** the joint Motion for Entry of Revised Case Management Order (#164), and enters the following Revised Case Management Order to govern all deadlines and procedures following entry of this order. The discovery and dispositive motion deadlines listed in the original Case Management Order (Dkt. No. 52, as revised by Dkt. No. 96) remain in force, including, without limitation, the February 8, 2013 date for completion of discovery and the February 18, 2013 date for dispositive motions.

**I. TRIAL**

**A. TRIAL DATE.** A bench trial is scheduled for the civil term beginning on December 2, 2013. The parties estimate that the total time needed for trial will be approximately 10 days.

**B. TRIAL SUBPOENAS:** Counsel must subpoena all witnesses subject to subpoena at least fourteen (14) days before the trial date. The Court may elect not to enforce subpoenas that have not been issued in compliance with this deadline or, if requested, may quash subpoenas that have not been issued in compliance with this deadline.

**C. COUNSEL'S DUTIES PRIOR TO TRIAL:** By November 4, 2013, counsel for all parties shall exchange the disclosures required by Rule 26(a)(3)(A)(i). By November 15, 2013, counsel for all parties shall:

- (a) Discuss the possibility of a settlement;
- (b) Exchange copies of exhibits, other than those exhibits that will be used solely for cross-examination, or permit inspection if copying is impractical;
- (c) Number and become acquainted with all exhibits; and
- (d) Agree upon the issues, reduce them to writing, and file them with the Court. If counsel cannot agree upon the issues, each party is directed to write his/her own version and file it with the Court.
- (e) Agree upon stipulations of fact and file them with the Court. The parties are encouraged to stipulate to as many facts as possible to facilitate the trial of the case.

**D. COUNSEL'S FILINGS ONE WEEK BEFORE TRIAL:** By November 25, 2013, counsel for each party shall file with the Clerk of Court each of the following:

- (a) A trial brief addressing all questions of law and any anticipated evidentiary issues;
- (b) Proposed findings of fact and conclusions of law; and
- (c) Deposition testimony a party will offer as evidence at trial, as described below.

**E. DEPOSITION TESTIMONY:** If a party will offer deposition testimony as evidence at trial, the parties are to prepare the following and submit it to the Clerk of Court by November 25, 2013:

- (a) The party originally offering the testimony shall highlight in yellow all portions of the deposition testimony it will seek to have admitted;
- (b) That party shall then provide the highlighted copy to the opposing party;
- (c) The opposing party shall highlight in a different color all portions of the deposition testimony it will seek to have admitted;
- (d) The opposing party shall then list briefly in the margins, directly adjacent to the relevant testimony, any objections it has to that testimony (e.g., 401, hearsay);
- (e) The opposing party shall then return the document to the party originally offering the testimony, who will list objections to the opposing party's highlighted portion;
- (f) The party originally offering the testimony shall then file the document with the Clerk of Court.

**F. COUNSEL'S FILINGS ON THE FIRST DAY OF TRIAL:** No later than the morning of the first day of trial, counsel for each party shall file with the Clerk of Court an original and four (4) copies of the following:

- (a) A witness list containing the name of every proposed witness;
- (b) A statement of the education, experience, and qualifications of each expert witness, unless the parties have stipulated to the qualifications of each expert witness;
- (c) Stipulations concerning the authenticity of as many proposed exhibits as possible; and
- (d) An exhibit list.

**G. EXHIBITS:** Parties are expected to use presentation technology available in the courtroom to display evidence to the Court. Training on the equipment should be arranged well in advance of trial with the courtroom deputy. See "Courtroom Technology" link on the district website at [www.ncwd.uscourts.gov](http://www.ncwd.uscourts.gov). Counsel shall provide in electronic format any exhibits of documents, photographs, videos, and any other evidence that may be reduced to an electronic file, for the use of Court personnel and the Court's Jury Evidence Recording System (JERS) during trial. Documents and photographs shall be in **.pdf, .jpg, .bmp, .tif, or .gif** format; video and audio recordings shall be in **.avi, .wmv, .mpg, .mp3, .wma, or .wav** format. Each electronic exhibit shall be saved as a separate, independent file, and provided to the Court on a storage device, such as cd, dvd, or flash drive. Exhibit files shall be named consistent with their order and name on the exhibit list. For example:

Exhibit 1 - photograph of . . .

Exhibit 2(a) - contract

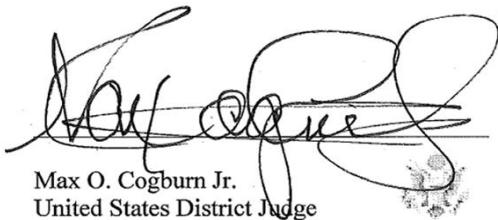
Exhibit 2(b) - video deposition of . . .

**H. FORMAT FOR EXHIBIT LIST:** In preparing the exhibit list, counsel separately shall identify and number each exhibit, shall arrange the list numerically by exhibit number, and shall place the following headings on the exhibit list:

<u>Exhibit #</u>	<u>Description</u>	<u>Identified by</u>	<u>Admitted</u>
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It is not necessary for counsel to make entries in either the "Identified by" column or the "Admitted" column. Counsel shall also provide an electronic copy of the exhibit list with the electronic exhibit files.

Signed: October 15, 2013

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.". The signature is fluid and cursive, with some loops and variations in line thickness.

Max O. Cogburn Jr.  
United States District Judge